

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 66

SENATE BILL 1265

AN ACT

AMENDING SECTIONS 9-249 AND 11-634, ARIZONA REVISED STATUTES; AMENDING TITLE 47, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 47-3312; RELATING TO NEGOTIABLE INSTRUMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-249, Arizona Revised Statutes, is amended to
3 read:

4 9-249. Warrants, substitute checks and vouchers; presentment;
5 payment; registry; definitions

6 A. The treasurer of a city or town shall not pay any warrant,
7 substitute check or voucher unless presented for payment by the person in
8 whose favor it is drawn or the person's assignee, executor or
9 administrator. When a warrant, substitute check or voucher on the treasurer
10 is properly presented for payment, the treasurer shall pay it and write or
11 stamp on the face of it "paid" and the date of payment and shall sign it. AN
12 ELECTRONIC IMAGE OF THE ORIGINAL WARRANT PROVIDED BY OR MADE AVAILABLE BY THE
13 SERVICING BANK IN A FORMAT APPROVED BY THE TREASURER OF A CITY OR TOWN SHALL
14 BE DEEMED PROPERLY PRESENTED. If the treasurer cannot pay the warrant,
15 substitute check or voucher for want of funds, the treasurer shall write or
16 stamp on the face of it "not paid for want of funds" and the date of
17 presentation and shall sign it, and, from that date until paid, the warrant,
18 substitute check or voucher shall bear interest at a rate to be determined by
19 the council, but in no case to exceed six per cent per year. The city or
20 town and the servicing bank shall agree upon the method of delivery of the
21 warrant, substitute check or voucher.

22 B. The treasurer shall keep a registry of warrants, substitute checks
23 and vouchers presented for payment.

24 C. For the purposes of this ~~section~~ ARTICLE:

25 1. "Substitute check" means a paper reproduction of an original
26 warrant created from an electronic image of the original warrant that:

27 (a) Contains an image of the front and back of the original check.

28 (b) Bears a magnetic ink character recognition line containing all of
29 the information in the magnetic ink character recognition line of the
30 original check.

31 (c) Conforms in paper stock, dimension and otherwise with generally
32 applicable industry standards for substitute checks.

33 (d) Is suitable for automated processing in the same manner as the
34 original warrant.

35 2. "Warrant" means an original warrant or an electronic image of an
36 original warrant from which a substitute check may be created.

37 Sec. 2. Section 11-634, Arizona Revised Statutes, is amended to read:

38 11-634. Payment of warrants and substitute checks; definitions

39 A. When the board of supervisors, the county superintendent of schools
40 or a special district presents a warrant or substitute check for payment, the
41 county treasurer shall pay it and make a charge against the appropriate
42 account. AN ELECTRONIC IMAGE OF THE ORIGINAL WARRANT PROVIDED BY OR MADE
43 AVAILABLE BY THE SERVICING BANK IN A FORMAT APPROVED BY THE COUNTY TREASURER
44 SHALL BE DEEMED PROPERLY PRESENTED.

1 B. For the purposes of this section, "substitute check" and "warrant"
2 have the same meanings prescribed in section 9-249.

3 Sec. 3. Title 47, chapter 3, article 3, Arizona Revised Statutes, is
4 amended by adding section 47-3312, to read:

5 47-3312. Lost, destroyed or stolen cashier's check, teller's
6 check or certified check

7 A. IN THIS SECTION:

8 1. "CHECK" MEANS A CASHIER'S CHECK, TELLER'S CHECK OR CERTIFIED CHECK.

9 2. "CLAIMANT" MEANS A PERSON WHO CLAIMS THE RIGHT TO RECEIVE THE
10 AMOUNT OF A CASHIER'S CHECK, TELLER'S CHECK OR CERTIFIED CHECK THAT WAS LOST,
11 DESTROYED OR STOLEN.

12 3. "DECLARATION OF LOSS" MEANS A WRITTEN STATEMENT, MADE UNDER PENALTY
13 OF PERJURY, TO THE EFFECT THAT ALL OF THE FOLLOWING:

14 (a) THE DECLARER LOST POSSESSION OF A CHECK.

15 (b) THE DECLARER IS THE DRAWER OR PAYEE OF THE CHECK, IN THE CASE OF A
16 CERTIFIED CHECK, OR THE REMITTER OR PAYEE OF THE CHECK, IN THE CASE OF A
17 CASHIER'S CHECK OR TELLER'S CHECK.

18 (c) THE LOSS OF POSSESSION WAS NOT THE RESULT OF A TRANSFER BY THE
19 DECLARER OR A LAWFUL SEIZURE.

20 (d) THE DECLARER CANNOT REASONABLY OBTAIN POSSESSION OF THE CHECK
21 BECAUSE THE CHECK WAS DESTROYED, ITS WHEREABOUTS CANNOT BE DETERMINED OR IT
22 IS IN THE WRONGFUL POSSESSION OF AN UNKNOWN PERSON OR A PERSON THAT CANNOT BE
23 FOUND OR IS NOT AMENABLE TO SERVICE OF PROCESS.

24 4. "OBLIGATED BANK" MEANS THE ISSUER OF A CASHIER'S CHECK OR TELLER'S
25 CHECK OR THE ACCEPTOR OF A CERTIFIED CHECK.

26 B. A CLAIMANT MAY ASSERT A CLAIM TO THE AMOUNT OF A CHECK BY A
27 COMMUNICATION TO THE OBLIGATED BANK DESCRIBING THE CHECK WITH REASONABLE
28 CERTAINTY AND REQUESTING PAYMENT OF THE AMOUNT OF THE CHECK, IF ALL OF THE
29 FOLLOWING:

30 1. THE CLAIMANT IS THE DRAWER OR PAYEE OF A CERTIFIED CHECK OR THE
31 REMITTER OR PAYEE OF A CASHIER'S CHECK OR TELLER'S CHECK.

32 2. THE COMMUNICATION CONTAINS OR IS ACCOMPANIED BY A DECLARATION OF
33 LOSS OF THE CLAIMANT WITH RESPECT TO THE CHECK.

34 3. THE COMMUNICATION IS RECEIVED AT A TIME AND IN A MANNER AFFORDING
35 THE BANK A REASONABLE TIME TO ACT ON IT BEFORE THE CHECK IS PAID.

36 4. THE CLAIMANT PROVIDES REASONABLE IDENTIFICATION IF REQUESTED BY THE
37 OBLIGATED BANK.

38 C. DELIVERY OF A DECLARATION OF LOSS IS A WARRANTY OF THE TRUTH OF THE
39 STATEMENTS MADE IN THE DECLARATION. IF A CLAIM IS ASSERTED IN COMPLIANCE
40 WITH SUBSECTION B OF THIS SECTION, THE FOLLOWING RULES APPLY:

41 1. THE CLAIM BECOMES ENFORCEABLE AT THE LATER OF EITHER OF THE
42 FOLLOWING:

43 (a) THE TIME THE CLAIM IS ASSERTED.

1 (b) THE NINETIETH DAY FOLLOWING THE DATE OF THE CHECK, IN THE CASE OF
2 A CASHIER'S CHECK OR TELLER'S CHECK, OR THE NINETIETH DAY FOLLOWING THE DATE
3 OF THE ACCEPTANCE, IN THE CASE OF A CERTIFIED CHECK.

4 2. UNTIL THE CLAIM BECOMES ENFORCEABLE, IT HAS NO LEGAL EFFECT AND THE
5 OBLIGATED BANK MAY PAY THE CHECK OR, IN THE CASE OF A TELLER'S CHECK, MAY
6 PERMIT THE DRAWEE TO PAY THE CHECK. PAYMENT TO A PERSON ENTITLED TO ENFORCE
7 THE CHECK DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE
8 CHECK.

9 3. IF THE CLAIM BECOMES ENFORCEABLE BEFORE THE CHECK IS PRESENTED FOR
10 PAYMENT, THE OBLIGATED BANK IS NOT OBLIGED TO PAY THE CHECK.

11 4. WHEN THE CLAIM BECOMES ENFORCEABLE, THE OBLIGATED BANK BECOMES
12 OBLIGED TO PAY THE AMOUNT OF THE CHECK TO THE CLAIMANT IF PAYMENT OF THE
13 CHECK HAS NOT BEEN MADE TO A PERSON ENTITLED TO ENFORCE THE CHECK. SUBJECT
14 TO SECTION 47-4302, SUBSECTION A, PARAGRAPH 1, PAYMENT TO THE CLAIMANT
15 DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE CHECK.

16 D. IF THE OBLIGATED BANK PAYS THE AMOUNT OF A CHECK TO A CLAIMANT
17 UNDER SUBSECTION C, PARAGRAPH 4 OF THIS SECTION AND THE CHECK IS PRESENTED
18 FOR PAYMENT BY A PERSON HAVING RIGHTS OF A HOLDER IN DUE COURSE, THE CLAIMANT
19 IS OBLIGED TO EITHER:

20 1. REFUND THE PAYMENT TO THE OBLIGATED BANK IF THE CHECK IS PAID.

21 2. PAY THE AMOUNT OF THE CHECK TO THE PERSON HAVING RIGHTS OF A HOLDER
22 IN DUE COURSE IF THE CHECK IS DISHONORED.

23 E. IF A CLAIMANT HAS THE RIGHT TO ASSERT A CLAIM UNDER SUBSECTION B OF
24 THIS SECTION AND IS ALSO A PERSON ENTITLED TO ENFORCE A CASHIER'S CHECK,
25 TELLER'S CHECK OR CERTIFIED CHECK WHICH IS LOST, DESTROYED OR STOLEN, THE
26 CLAIMANT MAY ASSERT RIGHTS WITH RESPECT TO THE CHECK EITHER UNDER THIS
27 SECTION OR SECTION 47-3309.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.